

# HAVERHILL PUBLIC SCHOOLS

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September 12, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554

ELECTRONICALLY FILED VIA ECFS

**RE: CC Docket No. 02-6**

**Petition for Waiver of FCC Form 486 filing deadline**

Form 486 Application Number: 897808

Applicant: Haverhill Public Schools, BEN 120381

Dear Secretary Dortch,

The Haverhill Public Schools (the District) request a waiver of the FCC Form 486 filing deadline in the case of Form 486 Application No. 897808. Although the FCC Form 486 was timely filed, its certification was two days past the deadline.

**Background**

USAC issued the Funding Commitment Decision Letter for funding requests on Haverhill Public schools' Form 471 application 800329 on 12/28/2011—almost six months after the 2011 Funding Year began.

The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) sent Haverhill Public Schools a letter dated May 30, 2012 stating the District may have missed the deadline for submitting and certifying its FCC Form 486. The letter stated that the District has 20 days from the date of that letter to submit and certify its Form 486 with no penalty.

Unfortunately the USAC letter was placed in the wrong mail slot. After the person came back from vacation and the letter was placed in the right mail slot, the District immediately submitted the Form 470 application online on the last of the 20 days (June 19, 2012). Unfortunately, the Form 486 could not be certified by the appropriate District administrator until two days later (June 21, 2012).

Subsequently, USAC's "Form 486 Notification Letter for Funding Year 2011" dated July 18, 2012 adjusted the service start date for funding request numbers (FRNs) 2210711, 2210673, 2216268, 2210693, and 2210657 associated with the District's FCC Form 486 Application Number 897808 from July 1, 2011 to February 22, 2012. This action effectively reduced the E-rate funding commitment by 65%.

## Discussion

Due to factors not reasonably within its control, Haverhill Public Schools was unable to fully comply with the requirement to file and certify Form 486 in a timely manner. Although Haverhill Public School's online submittal filing was timely, the certification was two days late.

The amount of funding reduction was aggravated by the late issuance of the Funding Commitment Decision Letter. Had the FCDL been issued at the start of the program year (July 1, 2011), the total reduction would have only been 33% rather than 65%.

The District believes that it has demonstrated that good cause exists to waive the deadline for filing the FCC Form 486. As noted in *Bishop Perry Middle School*<sup>1</sup>, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.

In *Alaska Gateway*<sup>2</sup>, the Federal Communication Commission's ("Commission") Wireline Competition Bureau ("Bureau") found that where special circumstances are present and a Form 486 was not filed on a timely basis and petitioners demonstrate a good cause exists, the Bureau may grant a waiver of the filing deadline and direct USAC to process the applicant's Form 472 reimbursement application without a postponement of the funding start date. The Bureau noted that in these cases the applicants missed a USAC procedural deadline and did not violate a substantive rule.

The Bureau further noted in *Alaska Gateway* that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. In these cases, the Bureau found that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) of the Telecommunications Act of 1996 – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.

The Bureau has consistently applied the *Alaska Gateway* standard in subsequent orders granting waivers of the Form 486 filing deadline, including *Alcona County Library*<sup>3</sup>, *State of Arkansas Department of Information Systems*<sup>4</sup>, *Children of Peace School*<sup>5</sup>, *Academy St.*

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<sup>1</sup> *Bishop Perry Middle School et al*, 21 FCC Rcd 5316 (FCC 06-54)

<sup>2</sup> *Alaska Gateway School District et al*, 21 FCC Rcd 10182 (DA 06-1871)

<sup>3</sup> *Alcona County Library et al*, 23 FCC Rcd 15500 (DA 08-2379)

<sup>4</sup> *State of Arkansas Department of Information Systems et al*, 23 FCC Rcd 9373 (DA 08-1418)

<sup>5</sup> *Children of Peace School et al*, 25 FCC Rcd 5492 (DA 10-885)

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*Benedict – Stewart*<sup>6</sup>, *Bancroft Neurohealth*<sup>7</sup>, *Archdiocese of Chicago School*<sup>8</sup>, *Albertville City Schools*<sup>9</sup>, and *Beebe Public Schools*<sup>10</sup>.

### **Request for Relief**

The Haverhill Public Schools respectfully requests that the Bureau grant a waiver of the FCC Form 486 filing deadline for its application 897808. Its circumstances are substantially similar to the petitioners in the cited orders. We also ask that the Bureau direct USAC to waive any of its subsequent deadlines, including invoicing deadlines, related to its FCC Form 486.

On behalf of our students, Haverhill Public Schools also respectfully requests that the Bureau expedite consideration of this petition. Timely action by the Bureau would support the goals of the E-Rate program would prevent negative impact on our students due to a delay in receiving our committed E-Rate reimbursement funds.

Thank you for your attention to this matter.

HAVERHILL PUBLIC SCHOOLS



Stephen Kelley

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<sup>6</sup> *Academy St. Benedict – Stewart et al*, 25 FCC Rcd 17309 (DA 10-2352)

<sup>7</sup> *Bancroft Neurohealth et al*, 26 FCC Rcd 10948 (DA 11-1239)

<sup>8</sup> *Archdiocese of Chicago School* (DA 12-28)

<sup>9</sup> *Albertville City Schools, Albertville, Alabama, et al.* (DA 12-894)

<sup>10</sup> *Beebe Public Schools, Beebe, Arkansas, et al.* (DA 12-569)